



August 2008

**FCC Proposes Satellite Operation
On 2 GHz By January, 2009**
Status of rebanding process apparently not a concern

R. J. Quianzon
703-812-0424
quianzon@fhhlaw.com

Broadcasters use the spectrum at 1990-2110 MHz for auxiliary operations involving vans, helicopters, remotes, STLs and intercity relays. That particular neck of the spectrum woods is in the process of reorganization, or “rebanding”, designed to free up a chunk of space that will be used for mobile services by Sprint Nextel. The rebanding will require many broadcasters to obtain and install new gear – at the expense of Sprint Nextel, thank you very much. Most broadcasters have been contacted by Sprint Nextel in the past year to coordinate the purchase of new equipment, which uses digital emissions and, thus, chews up less spectrum. As a result of the rebanding, when broadcasters move to digital operations, 35 MHz of spectrum will be vacated.

When the 2 GHz spectrum is clear, Sprint Nextel will be licensed to use 5 MHz for its mobile operations. Another 20 MHz of the vacated spectrum will be used by satellite companies. So far, the process has been slow, with disappointing progress. The overall task is, of course, daunting in and of itself – not to mention the fact that it’s going to be staggeringly expensive for Sprint Nextel. That could account for some of the slowness.

But the satellite companies who have been waiting in the wings to get at their 20 MHz are starting to get restless. They have pressed the Commission for permission to start using the new spectrum and, lo and behold, the Commission has agreed to consider letting them do so, even before broadcasters have shifted to their new digital operations. Thus far in the rebanding process, the FCC has refused to allow satellite companies to use the spectrum until broadcasters have moved to new operations in the top 30 television markets. However, the FCC has now concluded that it may not really need to wait for the broadcasters to move before it allows the satellite companies to operate on the same frequencies. Accordingly, in a notice of proposed rulemaking the FCC has proposed that, as of January 1, 2009, satellite companies will be able to transmit in the 2000-2020 MHz bands as long as such operation is secondary to broadcast operations.

Predictably, both broadcasters and Sprint Nextel have objected to the FCC's proposal. Broadcasters, through the NAB and MSTV, have strongly opposed the change, pointing out that they will encounter major league interference if satellite operators beam down signals from space while terrestrial broadcasters are still operating on the same frequencies. Sprint Nextel has likewise noted the potential for interference and the practical problems that it would face in having to relocate broadcasters under these circumstances.

Not surprisingly, the satellite companies have confidently assured the FCC that everything will be just fine. In fact, one of the companies disclosed that it launched a satellite a few weeks after the FCC proposed changing its rule. Needless to say, broadcasters and Sprint Nextel were less than complimentary of the satellite claims.

The FCC's tentative conclusion that it will allow both broadcasters and satellite companies to operate simultaneously at 2000-2020 MHz is not promising for broadcasters. Broadcasters who are facing deadlines for relocating to digital equipment may soon be bothered by interference from outer space. While the Commission's tentative conclusion for the time being is still just that – tentative – it is not unreasonable to assume that it may be embraced permanently in the not-too-distant future, most likely by January 1 of next year. Stay tuned for future developments.